

TOWN OF NEEDHAM  
MASSACHUSETTS  
**BOARD OF APPEALS**

**DRAFT 11/19/19**

**COMPREHENSIVE PERMIT**

***Petruzziello Properties, LLC, applicant  
1180 Great Plain Avenue  
Map 390, Parcel 1***

**September 19, 2019**

**FINDINGS AND DECISION**

On the basis of the evidence presented at the hearings, the Board makes the following findings:

1. The site contains 35,286 square feet improved with a 14,500 square foot +/- one story building formerly used as congregate housing. The site is located in the Single Residence B District with 99 feet of frontage on Great Plain Avenue and rear access to Walnut Street over a 20-foot-wide easement.
2. The building was constructed following a Decision of the Board dated September 13, 1966 finding that the construction and use were permissible as a residential home under Section III-A(1)c of the then Zoning By-Law. The By-Law has been amended, the use has been abandoned and the use would no longer be permissible.
3. The building was used as a home for senior Christian Scientist for a period but became vacant. The property was acquired in 2014 by the Congregational Church of Needham which abuts to the East. In 2015, approximately 7000 square feet of the property was leased for use as a day care center which caused significant traffic issues. The building has been vacant for several years.
4. The applicant proposes to add a second story and convert the building into sixteen rental apartments (eight one-bedroom and eight two-bedroom units). Four of the apartments would be rented to persons of limited income.
5. The applicant has filed under MGL Chapter 40B because the current zoning does not allow an apartment use.
6. According the September 2018 inventory by the Department of Housing and Community Development ("DHCD"), Needham has 1397 affordable housing units which is 12.5% of its

housing stock. Since the affordable housing in Needham has exceeded 10%, the applicant may proceed under Chapter 40B, but has no right on appeal to overturn the decision of the Board.

7. The project was presented to the Needham Select Board at a public hearing on May 14, 2019. The Select Board voted at a meeting on May 28, 2019 to recommend the granting of a comprehensive permit for the project subject to several conditions. One unresolved issue was the traffic flow at the project. The Select Board further discussed the traffic flow and voted at a meeting on October 1, 2019 to recommend that traffic be one-way from Great Plain Avenue to Walnut Street or from Walnut Street to Great Plain as may be determined by the Board.
8. The applicant is affiliated with a developer that has substantial experience with the construction and operation of similar rental projects including apartment buildings in Dedham and Westwood.
9. The applicant has obtained a Project Eligibility Letter from the Massachusetts Housing Partnership ("MHP") dated July 16, 2019.
10. The applicant shall establish and form a single purpose Limited Dividend Organization as defined in 760 CMR Section 56.02. Such Limited Dividend Organization shall be wholly owned by applicant or applicant's principals. As used further herein, applicant shall refer to applicant and/or such Limited Dividend Organization to be established and formed.
11. The applicant has control over the site as evidenced by a Purchase and Sale Agreement between the Congregational Church of Needham, as seller, and the applicant, as buyer, dated October 22, 2018.
12. The applicant will conform to the Lender's Limited Dividend Policy as defined in the Chapter 40B Regulatory and Affordable Housing Agreement for Limited Dividend Organizations ("Regulatory Agreement") to be entered between the applicant and MHP.
13. The applicant has agreed that 25% of the units will be Affordable Housing Units as defined in the Regulatory Agreement in perpetuity available only for low- and moderate-income renters.
14. The project is consistent with the Affordable Housing Plan adopted by Needham in 2007 and Chapter 40B Guidelines adopted by Needham in 2012.
15. The proposed project is consistent with local needs.

#### **Traffic Flow**

16. In response to concerns about traffic expressed by the neighbors on Walnut Street, the applicant's original proposal for traffic flow was to have two-way traffic entering and exiting from Great Plain Avenue and to close off the Walnut Street access (except for emergency vehicles). The driveway to Great Plain Avenue is only 13.2 feet wide and cannot be widened. This two-way proposal would have required a signal system with cars waiting for a green light before entering or exiting. Great Plain Avenue has traffic backed up to a standstill in front of the premises at various times and there were likely to be periods when it would be difficult for residents to exit onto Great Plain Avenue.

17. When this property was operated for congregate housing, substantially all traffic flowed in and out from Walnut Street.
18. After a review of several alternate patterns for traffic flow, the Engineering Department, Building Commissioner and Fire Department recommended one-way traffic flow entering from Great Plain Avenue and exiting to Walnut Street.
19. The applicant submitted a traffic study dated May 10, 2019 prepared by Bayside Engineering indicating that Great Plain Avenue has a traffic volume of approximately 12,450 vehicles per day on a weekday with approximately 1,006 vehicles during the morning peak hour and 1,221 vehicles during the evening peak hour. Walnut Street has a daily volume of approximately 185 vehicles on a weekday with 25 vehicles during the morning peak and 35 vehicles during the evening peak.
20. The traffic study predicts an average of 80 vehicles per day in and out from the property. The weekday morning peak is projected at 8 vehicles per hour with 6 exiting and 2 entering. The weekday evening peak is projected at 12 vehicles per hour with 8 entering and 4 exiting. The estimates have not been reduced from standard guidelines because of the project is within easy walking distance of Needham and is likely to be occupied by a number of retired or elderly tenants. Based on these projections, the traffic will not be a substantial burden on either Great Plain Avenue or Walnut Street.

### **Parking**

21. The applicant's original proposal was for 27 parking spaces with 16 spaces to the rear, 9 spaces at an angle along the side of the building and 2 spaces on the circular driveway in front of the building. The By-Law requires one and one-half spaces for apartment buildings or 24 spaces, so the number of spaces is adequate. The Town Engineering Department objected to the configuration of the parking because they thought there was not adequate maneuvering space. The change to a one-way flow, limiting the spaces along the side to compact spaces, and some reconfiguration of the parking spaces satisfied the Engineering Department.
22. To reduce traffic, the applicant agreed that the tenants would be limited to one car to be parked on the premises and that the parking limitation would be included in the lease. This means that 16 spaces would be available to residents and there would be 11 guest spaces. Residents will be issued stickers so that the project manager can identify unauthorized parking.
23. To further reduce the traffic burden on Walnut Street neighbors, the applicant agreed that all deliveries would be made to the front of the building on Great Plain Avenue.

### **Safety**

24. In response to the concerns of Walnut Street residents about traffic safety, the applicant agreed to install a speed bump at the exit to Walnut Street and to install a sign warning driver to drive slowly. The applicant agreed to install signs and attempt to prevent use of the property by non-residents as a cut through from Great Plain Avenue to Walnut Street. The applicant agreed that no snow from the project will be deposited on Walnut Street.

## Engineering

25. In response to request from the Town Engineering Department, the applicant agreed to shut off and cap the current sewer line running through the property behind the building and to install a new sewer line running along the 20-foot easement from the building to the sewer connection in Walnut Street. The applicant will also install an infiltration system to catch rain runoff.
26. Applicant has requested waivers from the following provisions of the Zoning By-Law:
- a. Multi-family Residential Use (Section 3.2.4) Multi-family residential use is not allowed in the Single Residence B District.
  - b. Side Setback (Section 4.2.3) Required 14 for 32 linear feet and 16 feet thereafter. The existing building is 12.9 feet on the east side and 13.2 feet on the west side. The new second floor will be no closer to the side setbacks than the existing building.
  - c. Maximum Floor Area Ratio (Section 4.2.3) Required 0.36. The proposed building will have a Floor Area Ratio of 0.70.
  - d. Maximum Lot Coverage (Section 4.2.3) Required 25%. The proposed building will have a lot coverage of 36%.
  - e. Parking Design Requirements (Section 5.1.3) The proposed parking will not conform to the requirements for maneuvering aisles, setbacks, landscaped areas, and trees.
  - f. Design Review (Sections 7.2.5 and 7.7) A waiver was requested from all requirements pertaining to review of the proposed project by the Design Review Board.
  - g. Site Plan Review (Section 7.4) A waiver was requested from all requirements pertaining to site plan review of the proposed project by the Planning Board.
27. The Applicant has requested waivers from the Sign By-Law, Article 5 of Town of Needham General By-Laws. A waiver was requested from all requirements pertaining to review and permitting of signage by the Design Review Board.

On the basis of the foregoing findings, in open session, by unanimous vote, after motion duly made and seconded, the Board hereby grants the applicant a comprehensive permit pursuant to M.G.L. Chapter 40B, for the construction of a 16-unit rental apartment building on the 35,286 square foot parcel at 1180 Great Plain Avenue subject to the following conditions:

- 1. Construction shall be in accordance with the plans entitled "1180 Great Plain Avenue, Needham, Massachusetts" dated August 20, 2019 revised on October 10, 2019 and October 17, 2019, Sheets 1-6 prepared by GCG Associates, Inc. 2019 ("Plans").

2. The project shall contain sixteen rental units, eight of which will be one-bedroom units and eight of which will be two -bedroom units. The project shall have 27 parking spaces as shown on the Plans.
3. Traffic flow shall be one-way. Cars shall enter from Great Plain Avenue and exit by Walnut Street.
4. Construction shall be subject to final approval by the Town Engineer of drainage, engineering plans and lighting.
5. All utilities on the site shall be underground.
6. Lighting shall be constructed and shielded so there is no glare in adjacent residential neighborhoods.
7. All construction shall be subject to building codes and to building permits issued by the Building Commissioner and will be subject to the usual fees (including, without limitation, the affordable units).
8. All water, sewer, drain connection and street occupancy permits shall be issued by the Public Works Department, subject to the usual fees and plan requirements.
9. The applicant shall obtain approval of its final plans from MHP and enter into a Regulatory Agreement in a form approved by MHP. Prior to the issuance of a building permit, executed copies of the Regulatory Agreement shall be filed with the Board. It is acknowledged that the Town may wish to serve as a Monitoring Agent for the project. Should the Town seek to serve in such capacity, the applicant shall cooperate with such request, provided that it is also acknowledged that the ultimate decision on such request is at the discretion of the applicant's subsidizing agency.
10. Twenty-five percent of the units (four) shall be designated as Affordable Housing Units as defined in the Regulatory Agreement in perpetuity available only for low- and moderate-income renters. The four units shall remain restricted to low- and moderate-income renters after expiration of the Regulatory Agreement. An instrument ensuring perpetual affordability shall be recorded in the Norfolk County Registry of Deeds and proof of such recording to be provided prior to the issuance of any building permit.
11. No building permit will be issued until the Building Commissioner receives a letter from the Chairman of the Board, or his designee on the Board, that the conditions in paragraph 9 and 10 have been fulfilled
12. The applicant shall make a good faith effort to obtain local preference in the marketing of the affordable units to the maximum extent allowable. Marketing plans, once approved by MHP, shall be submitted to the Board. In the event the Board requests changes in the local preference or marketing plans, the applicant will work with the Board and use its best efforts to obtain approval of requested changes. In the event the changes are not approved, the applicant may proceed in accordance with the plans approved by MHP.

13. Prior to the issuance of a building permit, the applicant shall file seven sets of plans for the project stamped by a registered engineer and approved by MHP as final plans, together with a narrative indicating any changes from plans previously submitted to the Board. In accordance with 760 CMR 56.05(11), and as delegated by the Board, if the Chairman of the Board determines within 20 days from the date of submittal that the filed final plans are not consistent with prior approved plans, he shall decide whether the changes are substantial. If not substantial, he may approve the plans. If the Chairman determines that the plans are substantially different, he shall notify the applicant accordingly and the Board shall hold a public hearing within 30 days of the Chairman's determination to consider the changes and shall issue a decision within 40 days of the termination of the hearing.
14. Prior to the issuance of a building permit, the applicant shall submit, for the Town Engineer's review and approval, a construction mitigation plan that addresses noise, trucking routes, dust control, hours of operation and such other issues as he deems relevant to reduce and manage the disruption arising from construction. The Town Engineer shall consult with the Building Commissioner, Police Department and such other municipal parties as he deems appropriate and shall allow interested parties who request participation in writing an opportunity to comment on the plan before giving his approval. The approved construction mitigation plan shall be provided to every contractor and subcontractor working on the project.
15. Construction hours shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. through 5:00 p.m. on Saturdays. There will be no construction on Sundays or outside the approved hours unless necessary to deal with an emergency. There shall be no construction on municipal holidays unless approved by the Building Commissioner or necessary to deal with an emergency. No construction vehicles may stand with engines running before the designated hours of construction. There shall be no parking of construction vehicles on Great Plain Avenue or Walnut Street. All construction staging shall be on-site. Prior to beginning construction, the applicant shall provide to the Building Commissioner, Chief of Police and the Board the name and telephone number of the person in charge of construction and responsible for maintenance of the site.
16. During construction ~~the~~ the applicant shall use vinyl fencing, covered dumpsters or other appropriate means to keep debris from leaving the site and will be responsible for cleaning up debris on adjacent properties in a timely manner.
17. The applicant shall take reasonable steps to control pests during and after construction. Prior to the commencement of construction, the applicant shall have a pest technician set bait for rodents and wait for ten days before performing any work. Thereafter, the applicant shall have a pest technician inspect and set bait for rodents no less than once each month (and more often if necessary) until an occupancy permit is issued. A written report of each inspection and pest control activities shall be submitted to the Department of Health within ten days after each inspection. In addition, the applicant shall have an inspection for wildlife by a pest control

technician before the issuance of a building permit and shall cause any wildlife to be removed prior to the commencement of construction.

18. (formerly 17.) The landscaping shall be substantially in accordance with the landscape plan approved by the Board and shall be maintained by the owner in good condition. Any tree or plant material that dies or becomes diseased shall be replaced by the owner.
19. (formerly 18.) The owner of the project shall be responsible for snow plowing and removal so that all parking spaces remain available. Whenever snow fall exceeds 6 inches, snow shall be removed from the property. Snow shall not be deposited on Walnut Street or on any adjacent property.
20. (formerly 19.) The owner shall implement the following maintenance plan with such changes as may be approved by the Town Engineer:
  - a) parking lot sweeping twice per year after the snowmelt and in the fall;
  - b) catch basin cleaning and inspection twice per year in the spring and the fall;
  - c) oil/gas separators in the drainage system to be inspected monthly and cleaned four times per year, once each season.
21. (formerly 20.) All deliveries and trash pickup shall occur only between the hours of 7:00 am and 7:00 pm. All deliveries will be made to the front door on Great Plain Avenue.
22. (formerly 21) The applicant shall:
  - a) install and maintain a speed bump along the exit right of way near Walnut Street,
  - b) install a sign along the exit indicating that children may be playing and that cars should be driven slowly,
  - c) install a sign prohibiting non-residents from cutting through from Great Plain Avenue to Walnut Street,
  - d) limit all tenants to having no more than one car parked on the premises which limitation shall be included in the leases for the building and implemented by issuing resident stickers to identify cars authorized to be parked on premises, and
  - e) if requested by the owner of 27 Walnut Street within one year of the filing of this decision with the Town Clerk, install a fence or plantings (as may be requested) along the east side of the 20-foot access easement to shield the house at 27 Walnut Street from traffic using the easement. In the event the applicant and the owner of 27 Walnut Street cannot agree on the fence or plantings, the determination of what constitutes appropriate shielding will be made by the Board upon request of either party with such notice as the Board deems appropriate. ~~Building Commissioner shall decide what is an appropriate fence or plantings.~~

23. (formerly 22.) After the issuance of a building permit, if any changes are proposed to the approved plans, the Building Commissioner shall be charged with making the initial determination as to whether the changes are substantial or insubstantial. If the Building Commissioner is unable to make that determination, the Board's Chairman shall be charged with making the determination as to whether the changes are substantial or insubstantial. The Building Commissioner or the Board's Chairman may approve changes he determines are insubstantial. Any substantial changes can only be approved by the entire Board after a duly noticed public hearing, as the Board in its sole discretion shall deem appropriate.
24. (formerly 23.) Prior to the issuance of an occupancy permit, the applicant shall establish compliance with the public education requirements regarding storm water stipulated under the NPDES Storm water Phase II Program.
25. (formerly 24.) Prior to the issuance of an occupancy permit, the applicant shall file three wet-stamped copies of the following with the Building Commissioner:
- a) An as-built plan supplied by the engineer of record certifying that the project was built substantially according to the approved documents submitted to the Board and Department of Public Works. The as-built plan shall show all structures, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements in their true relationship to the lot lines for all on-site and off-site construction. In addition, the as-built plan shall show the final location, size, depth and material of all public and private utilities on the site and their points of connection to the individual utility, and all utilities which have been abandoned. In addition to the engineer of record, the as-built plan shall be certified by a Massachusetts Registered Land Surveyor.
  - b) A statement by the registered professional engineer of record certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham, Department of Public Works and in accordance with the approved plans for the project.
  - c) An as-built landscaping plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations for the project. The plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed substantially according to the approved documents.
26. (formerly 25.) No building may be occupied, or parking lot used prior to the issuance of an occupancy permit by the Building Commissioner. The Building Commissioner, in his discretion, may issue one or more certificates for temporary or partial occupancy of a building or use of parking lots prior to the completion of the entire project if he determines that such occupancy or use will be safe and that he has adequate insurance that the project will be completed. In connection with any temporary or partial permit, the Building Commissioner may require that a



bond be filed with the Board in an amount not less than 135% of the value of the unfinished work on the project.

27. (formerly 26.) The Board grants the waivers as requested by the applicant and listed in 26 of the application. The Board does not grant the waiver requested in paragraph 27 and all signs shall be subject to approval of the Design Review Board.
28. (formerly 27.) The applicant's profit shall be limited to the terms and conditions in the Regulatory Agreement.
29. (formerly 28.) The land and building for the project shall remain owned by one entity.
30. (formerly 29.) This permit is issued to the applicant and may not be transferred (except to the Limited Dividend Organization referenced in Paragraph 10 of the Findings above) without the consent of the Board, such consent not to be unreasonably withheld. The transferee must demonstrate to the Board that it possesses the requisite experience and management team to manage a mixed income project. Prior to substantial completion of the project, a transfer may be made only upon written approval of the subsidizing agency.
31. (formerly 30.) This Comprehensive Permit shall lapse if applicant does not proceed with construction within three years of the date this permit becomes final (meaning the date of this decision if no appeal is filed, or 30 days after the date any appeal is resolved if an appeal is filed) and continuously pursue construction thereafter with reasonable diligence to completion.
32. (formerly 31.) Failure to comply with any terms of this Comprehensive Permit shall be grounds for revocation of this Comprehensive Permit or any building permit issued under it. No order of revocation shall be issued by the Board without prior notice to the holder of the Comprehensive Permit and an opportunity to be heard at a public hearing. As an alternative, the Town may enforce compliance with this Comprehensive Permit by injunctive relief issued by a court of competent jurisdiction.

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Jon D. Schneider, Chairman

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Jonathan D. Tamkin, Member

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Howard S. Goldman, Member